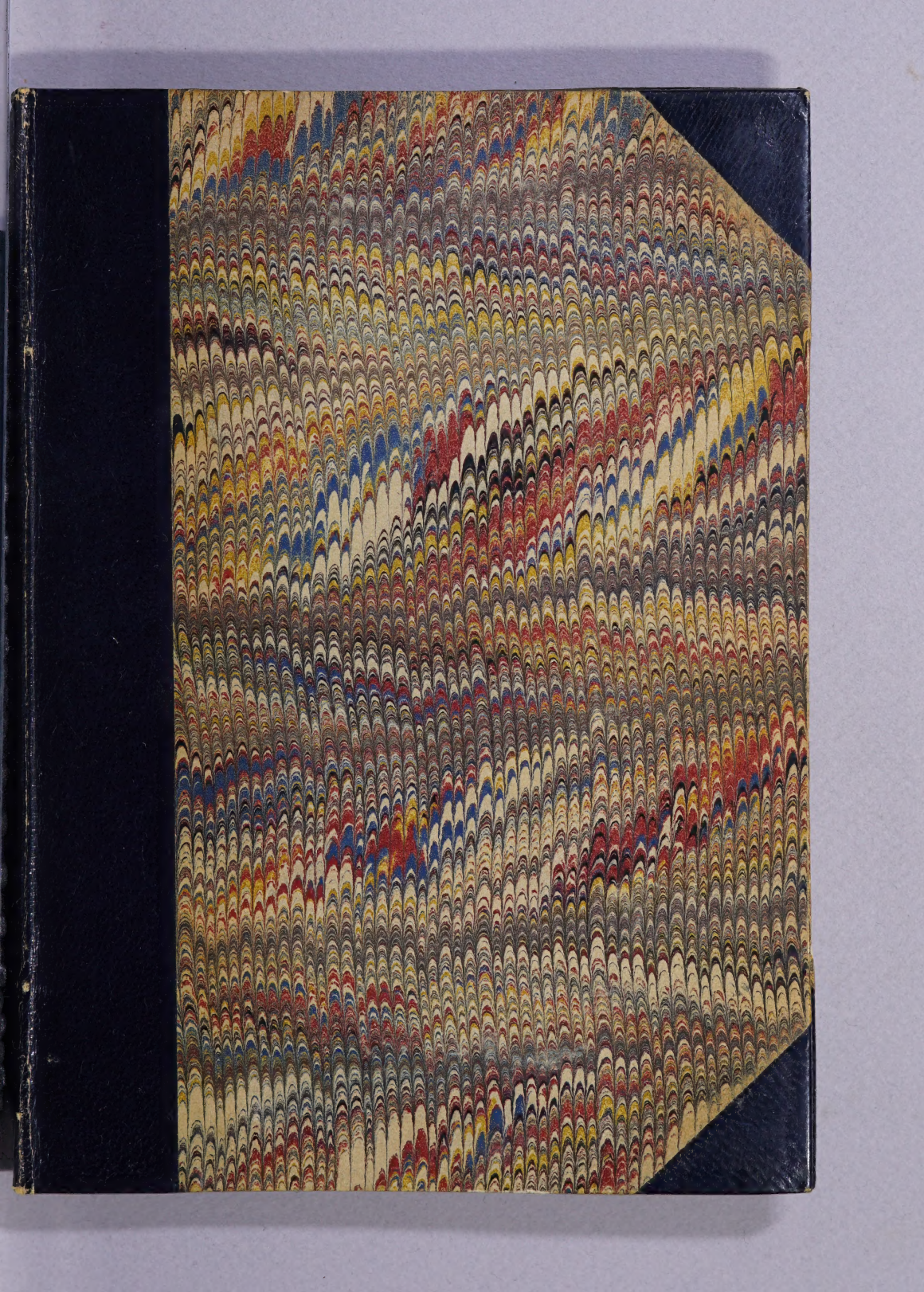

John Carter Brown.

not on Fernay.

873

AN ACT OF PARLIAMENT, FOR Encourageing the *Scots Affrican* and *Indian* Company.

Edinburgh, June 26. 1695.

OUR SOVERAIGN LORD Taking into His Consideration, That by an ACT past in this present Parliament, Intituled an Act for Encouragement of Forraign Trade; His Majesty for the Improvement thereof, Did with Advice and Consent of the Estates of Parliament, Statute and Declare, That Merchants more or fewer may Contract and enter into such Societies and Companies, for Carrying on of Trade, as to any Subject of Goods or Merchandise to whatsomever Kingdoms, Countries, or parts of the World, not being in War with His Majesty, where Trade is in Use to be, or may be followed, and particularly, beside the Kingdoms and Countries of *Europe*, to the *East* and

West-Indies, the *Streights*, and to Trade in the *Mediterranean*, or upon the Coast of *Affrica*, or in the *Northern* parts, or elsewhere as above: Which Societies and Companies being Contracted and Entered into, upon the Terms and in the usual Manner, as such Companies are set up, and in use in other parts Consistant always with the Laws of this Kingdom: His Majesty with Consent aforesaid, did Allow and Approve, giving and granting to them and each of them all Powers, Rights and Priviledges, as to their Persons; Rules and Orders, That by the Laws are given to Companies allowed to be Erected for *Manufactories*; And His Majesty for their greater Encouragement, did promise to give to these Companies, and each of them his Letters Patent under the great Seal, Confirming to them the whole foresaid Powers and Priviledges, with what other Encouragement His Majesty should judge needful, as the foresaid Act of Parliament at more length bears. And his Majesty understanding that several persons as Well Forreigners as Natives of this Kingdom, are willing to Engage themselves with great Sums of Money in an *American*, *African* and *Indian* Trade to be exercised in and from this Kingdom; if inabled and incouraged thereunto by the Concessions, powers and priviledges needful and usual in such Cases. Therefore, and in pursuance of the foresaid Act of Parliament, His Majesty with Advice and Consent of the saids Estates of Parliament, Doth hereby make and constitute *John* Lord *Belhaven*, *Adam Cockburn* of *Ormistoun*, Lord Justice Clerk, Mr. *Francis Montgomery* of *Giffen*, Sir *John Maxwell* of *Pollock*, Sir *Robert Chiesly* present Provest of *Edinburgh*, *John Swintoun* of that Ilk, *George Clark* late Baillie of *Edinburgh*, Mr. *Robert Blakewood*, and *James Balfour* Merchants in *Edenburgh*, and *John Cross* Merchant in *Glasgow*, *William Paterson* Esquire, *James Fowlis*, *David Nairn* Esquires, *Thomas Deans* Esquire, *James Chiesly*, *John Smith* *Thomas Coutes*, *Hugh Frazer*, *Joseph Cohaine*, *Daves Ovedo*, and *Walter Stuart* Merchants in *London*, with such others as shall joyn with them within the space of twelve Months after the first day of *August* next, and all others, whom the foresaid Persons and these joyned with them, or major part of them being assembled, shall admit and joyn into their Joint-Stock and Trade who shall all be Repute, as if herein originally insert to be one Body Incorporate, and a free Incorporation, with perpetual Sucession, by the Name of *The Company of* Scotland *Trading to* Affrica, *and the* Indies: *Providing always*, *Like as*, it is hereby in the first place provided, that of the Fond or Capital Stock that shall be agreed to, be Advanced and Imployed by the foresaid Undertakers, and their Co-partners; the half at least shall be appointed and allotted for *Scottish* men within this Kingdom, who shall enter and subscribe to the said Company, before the first day of *August*, one Thousand Six Hundred and Ninety Six Years: And if it shall happen, that *Scots* Men living within this Kingdom, shall not betwixt and the foresaid

RPJCB

said Term, subscribe for, and make up the equal half of the said Fond or Capital Stock, Then and in that case allanerly, It shall be, and is hereby allowed to *Scots* Men residing Abroad, or to Forraigners, to come in, Subscribe, and be assumed for the Superplus of the said half, and no otherwise: *Likeas*, the *Quota* of every mans part of the said Stock whereupon he shall be capable to enter into the said Company, whether he be Native or Forraigner, shall be for the least one Hundred *lib. Sterl.* And for highest, or greatest three Thousand *lib. Sterl.* and no more directly nor indirectly in any sort: with power to the said Company to have a common Seal, and to alter and renew the same at their pleasure, with advice always of the Lyon King at Arms; as also to Plead and Sue, and be Sued; and to Purchase, Acquirb, Possess, and enjoy Lordships, Lands, Tenements, or other Estate real or personal of whatsoever nature or quality, and to dispose upon and alienate the same, or any part thereof at their pleasure, and that by Transferrs and Assignment, made and entred in their Books and Records without any other formality of Law, *Providing always*, that such Shears as are first Subscribed for by *Scots* Men within this Kingdom shall not be alienable to any other than *Scots* Men living within this Kingdom; That the foresaid Transfers and Convoyancies as to Lands and other real Estate (when made of these only and a part) be perfected according to the Laws of this Kingdom anent the convoyance of Lands and real Rights, with power likewayes to the foresaid company by Subscriptions or otherways, as they shall think fit to raise a joint Stock or capital Fond of such a sum or sums of Money, and under and Subject unto such Rules, Conditions and Qualifications, as by the foresaid Company, or major part of them when assembled shall be limited and appointed to begin, carry on and support their intended Trade of Navigation, and whatever may contribute to the advancement thereof. *And it is hereby declared*, that the said joint-Stock or capital Fond, or any part thereof, or any estate, real or personal, Ships, Goods, or other Effects of and belonging to the said Company, shall not be lyable unto any manner of confiscation, Seisure, Forfaulture, Attachment, Arrest or Restrain, for and by reason of any Embargo, breach of Peace, Letters of mark or reprisal, Declaration of War with any forraign Prince, Potentate, or State, or upon any other account or pretence whatsomever; but shall only be transferable, assignable, or alineable in such way and manner and in such parts and Portions, and under such restriction, rules and conditions, as the said Company shall by writing in and upon their Books, Records and Registers direct and appoint, and These Transfers and Assignments only, and no other shall convoy the right and Property, in and to the said joint-Stock, and capital Fond and effects thereof abovementioned, or any part of the samen, Excepting always as is above-excepted, and

that the Creditors of any particular Member of the Company may by their real Diligence affect the ſhare of the profit falling, and pertaining to the Debitor, without having any further Right or Power of the Debiters part and Intereſt in the Stock or capital Fond, otherwiſe than is above appointed, and with this expreſs proviſion, that whatever charges the Company may be put to, by the contending of any of their Members Deceaſed, or of their Aſſigney, Creditors or any other Perſons in their Rights: The Company ſhall have retention of their Charges and Expenſes in the firſt place, and the Books, Records, and Regiſters of the ſaid Company or authentick Abſtracts, or Extract out of the ſame are hereby Declared to be good and ſufficient for evidents in all Courts of Judicator, and elſe where. And His Majeſty with Advice foreſaid farder Statutes and Declares, that the ſaid *John* Lord *Beilhaven*, *Adam Cockburn* of *Ormiſtoun*, Lord Juſtice Clerk, Mr. *Francis Montgomery* of *Giffen*, Sir *John Maxwell* of *Pollock*, Sir *Robert Chieſlly* preſent Proveſt of *Edinburgh*, *John Swintoun* of that Ilk, *George Clark* late Baillie of *Edinburgh*, Mr. *Robert Blakewood*, and *James Balfour* Merchants in *Edinburgh*, and *John Croſs* Merchant in *Glaſgow*, *William Paterſon* Eſquire, *James Fowlis*, *David Nairn* Eſquires, *Thomas Deans* Eſquire, *James Chieſly*, *John Smith*, *Thomas Coutes*, *Hugh Frazer*, *Joſeph Cohaine*, *Daves Ovedo*, and *Walter Stuart* Merchants in *London*, and others to be joyned with, or aſſumed by them in manner above-mentioned, and their Succeſſors, or major part of them aſſembled in the ſaid Company, ſhall and may in all time coming by the Plurality of Votes agree, make, conſtitute, and ordain all ſuch other Rules, Ordinances and Conſtitutions as may be needful for the better Government and Improvement of their joynt Stocks, or capital Fond in all matters and things relateing thereunto: To which Rules, Ordinances, and Conſtitutions, all Perſons belonging to the ſaid Company, as well Directors as Members thereof, Governours, or other Officers, Civil or Military, or others whatſoever ſhall be Subject, and hereby concluded; As alſo to adminiſtrat and take Oaths *de fideli*, and others requiſit to the management of the foreſaid Stock and Company. And the ſaid Company is hereby impowered to Equipp, Fit, Set out, Fraught, and Navigate their own, or hired Ships, in ſuch manner as they ſhall think fit, and that for the ſpace of Ten Years from the Date hereof, notwithſtanding of the Act of Parliament, One Thouſand ſix hundred and ſixty one Years, Intituled an Act for encouraging of Shipping and Navigation, wherewith His Majeſty with Conſent foreſaid diſpenſes for the ſaid time allanerly, in favours of the ſaid Company, and that from any of the Ports or Places of this Kingdom, or from any other parts or places in Amity, or not in Hoſtility with His Majeſty, in Warlike or other manner to any Lands, Iſlands, Countreys, or Places in *Aſia*, *Affrica*, or *America*, and there to Plant Collonies, build Cities, Towns, or Forts, in or upon the places not Inhabited, or

in,

in, or upon any other place, by consent of the Natives and Inhabitants thereof, and not possest by any European Soveraign, Potentate, Prince, or State, and to provide and furnish the foresaid Places, Cities, Towns, or Forts, with Magazines, Ordinances, Arms, Weapons, Ammunition, and Stores of War, and by force of Arms to Defend their Trade and Navigation, Collonies, Cities, Towns, Forts, and Plantations, and other their Effects whatsoever; as also to make Reprisals, and to seek and take Reparation of Damnage done by Sea, or by Land, and to make and conclude Treaties of Peace, and Commerce with the Soveraigns, Princes, Estates, Rulers, Governours, or Proprietors of the foresaid Lands, Islands, Countreys, or Places in *Asia*, *Affrica*, or *America*; *Providing always*, *Likeas*, It is hereby specially provided, That all Ships imployed by them shall return to this Kingdom with their Effects, under the pain of Confiscation, Forefaulture, and Seizure of the Ship and Goods, in case of breaking of Bulk before their Return, excepting the case of Necessity, for preserving the Ship, Company and Loading allanerly. And his Majesty with Consent foresaid, doth farder Statute and Ordain, that none of the Leidges of this Kingdom shall, or may Trade or Navigat to any Lands, Islands, Countreys, or Places in *Asia*, or *Affrica*, in any time hereafter, or in *America*, for, and during the space of thirty one years, to be counted from the passing of this present Act, without License and Permission in writing from the said Company: Certifying all such as shall do in the contrair hereof, that they shall Forefault and Omit the third part of the Ship, or Ships, and of the Cargo, or Cargoes therein imployed, or the Value thereof, the one half to His Majesty as Escheat, and the other half to the Use and Benefit of the said Company: For the effectual Execution whereof, it shall be lawful to the said Company, or any Imployed by them, to Seize the said Ships and Goods in any place of *Asia*, or *Affrica*, or at Sea upon the Coasts of *Asia*, or *Affrica*, upon the transgression foresaid, by force of Arms, and at their own hand, and that without the hazard of incurring any Crime, or Delinquency whatsomever on account of the said Seizure, or any thing necessarly done in Prosecution thereof, excepting always, and without prejudice to any of the Subjects of this Kingdom to Trade and Navigat, During the said space to any part of *America*, where the Collonies, Plantations, or Possessions of the said Company shall not be settled. And it is further hereby Enacted, that the said Company shall have the Free and Absolute Right and Property, onely Relieving and Holding of His Majesty, and His Successors in Soveraignity, for the onely acknowledgment of their Allegeance, and paying yearly a Hogshead of Tobacco, in name of Blench-duty, if required allanerly, in, and to all such Lands, Islands, Collonies, Cities, Towns, Forts, and Plantations, that they shall come to Establish, or Possess in manner foresaid; As also, to all manner of Treasures,

fures, Wealth, Riches, Profits, Mines, Minerals, Fishings, with the whole Product and Benefit thereof, as well under as above the Ground, and as well in Rivers and Seas, as in the Lands thereto belonging, or from, or by reason of the same in any sort, together with the Right of Government and Admirality thereof; And that the said Company may by vertue hereof grant and delegat such Rights, Properties, Powers, and Imunities and permit and allow such sort of Trade, Commerce, and Navigation into their Plantations, Collonies, Cities, Towns, or Places of their Possession, as the said Company from time to time shall judge fit and convenient, with Power to them to impose and exact such Customs, and other Duties upon and from themselves, and others Trading with, and coming to the said Plantations, Cities, Towns, Places, and Ports, and Harbours thereof, as the Company shall think needful for the maintainance and other publick uses of the same, *Holding* always, and to hold the whole Premises of His Majesty, and his Successours Kings of *Scotland*, as Soveraigns thereof, and paying only for the same, their acknowledgment and allegeance, with a Hogshead of Tobacco yearly, in name of Blench Duty, if required, for all other Duty, Service, Claim or Demand whatsomever. With power and liberty to the said Company to Treat for, and to procure and purchase such Rights, Liberties, Priviledges, Exemptions and other Grants, as may be convenient for supporting, promoting, and enlarging their Trade and Navigation from any forreign Potentate or Prince whatsoever, in amity with His Majesty, for which the general Treaties of Peace and Commerce betwixt his Majesty and such Potentates, Princes, or States shall serve for sufficient Security, Warrand and Authority, and if contrair to the saids Rights, Liberties, Priviledges, Exemptions, Grants, or Agreements, any of the Ships, Goods, Merchandise, Persons, or other Effects whatsoever, belonging to the said Company, shall be stopt, detained, embazled, or away taken, or in any sort prejudged or damnified; His Majesty promises to interpose his Authority, to have restitution, reparation and satisfaction made for the Dammage done: and that upon the publick Charge, which His Majesty shall cause depone, and lay out for that Effect. And farder, it is hereby Statute, that all Ships, Vessels, Merchandise, Goods, and other Effects whatsoever belonging to the said Company shall be free of all manner of Restraints, or Prohibitions, and of all Customs, Taxes, Cesses, Supplies, or other Duties Imposed, or to be Imposed by Act of Parliament, or otherwise, for and during the space of twenty one years, excepting alwise the whole Duties of Tobacco and Suggar, that are not of the Growth of the Plantations of the said Company. And farder, it is Enacted, that the said Company by Commission under their common Seal or otherwise as they shall appoint, may make and constitute all and every their Deputs, Governours, and Commanders, in Chief, and other Officers Civil or Military by Sea, or by Land; As likewise that the said Company may Inlist, Inroll, Agree and Retain all such

such persons Subjects of this Kingdom, or others whatsoever, as shall be willing and consent to enter in their Service or Pay, providing always that they Uplift or Levy none within the Kingdom, to be Souldiers, without Leave or Warrand first obtained from His Majesty, or the Lords of His Privy Council, over which Directors, Governours, Commanders in Chief, or other Officers Civil or Military, and others whatsoever in their Service and Pay, the Company shall have the Power, Command, and Disposition both by Sea and Land. And it is farder Statute, That no Officer Civil or Military, or other Person whatsoever within this Kingdom, shall Impress, Entertain, Stop or Detain any of the Members, Officers, Servants or others whatsoever, off, or belonging to the said Company, And in case the said Company, their Officers or Agents, shall find or understand any of their Members, Officers, Servants, or others aforesaid to be Impressed, Stopped or Detained, they are hereby Authorized and Allowed to take hold of, and Release the foresaid Person Impressed or Stopped in any part of this Kingdom, either by Land or Water; and all Magistrates and others His Majesties Officers Civil and Military, and all others are hereby required in their Respective Stations, to be Aiding and Assisting to the said Company, under the pain of being lyable to all the Loss, Dammage, and Detriment of the said Company, by reason of the foresaid persons their neglect. And farder that the said Company, whole Members, Officers, Servants, or others belonging thereto, shall be free, both in their Persons, Estates, and Goods, Imployed in the said Stock and Trade, from all manner of Taxes, Cesses, Supplies, Excises, Quartering of Souldiers Transient or Local, or Levying of Souldiers, or other Impositions whatsoever, and that for and during the space of twenty one years. And lastly, all Persons Concerned or to be Concerned in this Company, are hereby declared to be free Denizons of this Kingdom, and that they with all that shall Settle to Inhabit, or be Born in any of the foresaid Plantations, Collonies, Cities, Towns, Factories, and other Places that shall be Purchast and Posset by the said Company, shall be repute as Natives of this Kingdom, and have the Priviledges thereof. And generally, without Prejudice of the Specialities foresaid, His Majesty with Consent foresaid, Gives and Grants to the said Company, all Power, Rights and Priviledges, as to their Persons, Rules, Orders, Estates, Goods and Effects whatsoever, that by the Laws are given to Companies allowed to be Erected for Manufactories, or that are usually given in any other Civil Kingdom or Common-wealth, to any Company there Erected for Trade and Commerce. And for the better Establishment and greater Solemnity of this Act and Gift, in Favours of the said Company, His Majesty doth farder Ordain Letters Patent to be expede hereupon, containing the whole Premisses under the Great Seal of this Kingdum, for doing whereof *Per Saltum*. This Presents shall be sufficient Warrand both to the Director and Chancellor, or Keeper of the Great Seal, as use is in like Cases.

for a more particular Account of this expedition. See. Sir John Dalrymples. Memoires. of Great Britain and Ireland. 2. Vol. 4to. published. 1787.

He there represents Paterson to be a great man, — & most certainly was, —

D
Scott
2c